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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/082,935	10/22/2001	Dieter Hoi	AT000062	4069
24737	7590	06/30/2006	EXAMINER	
PHILIPS INTELLECTUAL PROPERTY & STANDARDS P.O. BOX 3001 BRIARCLIFF MANOR, NY 10510			AUGUSTIN, EVENS J	
			ART UNIT	PAPER NUMBER
			3621	

DATE MAILED: 06/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/082,935

Applicant(s)

HOI ET AL.

Examiner

Evans Augustin

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**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 June 2006.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-13 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-13 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

***Response to Amendment***

This is in response to an amendment file on 06/15/2006 for letter for patent filed on 10/22/2001. Claims 1-13 are pending in the letter.

***Status of Claims***

1. Claims 1-13 have been examined.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cilurzo et al. (U.S 6434526), in view of Mishelevich et al. (U.S 6434547).

During patent examination the pending claims must be interpreted as broadly as their terms reasonably allow. The reason is simply that during patent prosecution when claims can be amended, ambiguities should be recognized, scope and breadth of language explored, and

clarification imposed. In re Zletz, 893 F.2d 319, 321-22, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989)

The office interprets the invention as licensing for software application in which the owner/distributor of the software gets compensated for on a pay per usage basis. In other words, whenever the software product gets used, licensing requirement gets reconciled and payment is made for the usage of the software. In this application, the software product happens to be voice/speech recognition software that translates voice/speech into text.

As per claims 1-13, Cilurzo et al. disclose an invention that relates to communication networks and more particularly to the provision of a speech recognition capacity to special application program services provided on a network. The invention includes:

- Providing on a network software with speech recognition capability (column 2, lines 49-51)
- A server receiving voice input from the user - the server processes the voice input and transmits back text transcription of the voice input (column 2, lines 22-37)
- The fee determination for the software being used to transcribe voice-to-text process can be a monthly rental fee, or a service price for the use of the software (column 2, lines 38-40)
- Speech data is inputted into a service server that does processing and transmitting the text output back to the user (column 4, lines 1-56)
- Determining a number of words in dictation (column 4, lines 42-48)
- The system also uses programs with word processing capabilities such as word processor and Lotus Notes (column 5, lines 17-20). Word processors inherently contain editing functions or operations

Although Cilurzo et al. teach an invention in which the a translation of the dictation is transmitted back to the user's location and appears in text on the user's computer screen for examination and if necessary, voice or typed correction of its contents (column 2, lines 32-34), Cilurzo et al. did not teach a system which determines the number of words being transcribed or the number of correction made. However, Mishelevich et al. describe an invention in which a user enters data orally into a computer system, and transcribed using speech-recognition software. According to Mishelevich et al., data being entered is quantified as points (column 3, lines 1-3, 30-67). Therefore, it would have been obvious for one skilled to provide voice-to-text software/service that includes word count because, according to Mishelevich et al., such feature would facilitate the billing service of the system (column 3, lines 9-10).

4. Claims 1-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cilurzo et al. (U.S 6434526), in view of Mishelevich et al. (U.S 6434547) and in further view of Frison et al. (U.S 6434547).

As per Claims 1-15, the inventions of Cilurzo et al. and Mishelevich et al. have previously been disclosed.

Cilurzo et al. and Mishelevich et al. did not explicitly teach a speech-to-text system in which the software or the service is being rendered on Pay-Per-Use basis. However, Frison et al. describe an invention that relates to the field of managing software licenses. More specifically, the present invention relates to a software pay per use licensing system. According to Frison et al., the software licensing system includes one or more licensor license management systems

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(LMS) and one or more licensee LMS. Each licensee LMS includes one or more components that operate to grant pay-per-use licenses for software applications, including data collection on amount of usage licenses granted, and to monitor operational states of the pay-per-use license granting and data collection operations, including periodic reporting of state and usage license granted data to a licensor LMS (column 1, lines 48-56). Therefore, it would have been for an artisan skilled in the art of distributing software products to provide software that is being licensed on a Pay-Per-Use basis. According to Frison et al. pay-per-use licensing system has at least the advantage of lower up front cost for the licensees, which in turn often leads to higher sales and greater revenue in the long run for the licensor (column 1, lines 23-26).

### ***Conclusion***

5. *Examiner has pointed out particular references contained in the prior arts of record in the body of this action for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested that if the applicant is preparing to respond, to consider fully the entire references as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior arts or disclosed by the examiner.*

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Evens Augustin whose telephone number is 571-272-6860. The examiner can normally be reached on Monday thru Friday 8 to 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jim Trammel can be reached on 571-272-6712.

Any response to this action should be mailed to:

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is 571-272-6584.

Evens J. Augustin  
June 25, 2006  
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*Evens J. Augustin*  
PRIMARY EXAMINER